

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC)	
)	
Participant in Auction No. 61 and Licensee of Various	)	EB Docket No. 11-71
Authorizations in the Wireless Radio Services)	
	)	File No. EB-09-IH-1751
Applicant for Modification of Various Authorizations in the)	
Wireless Radio Services	)	FRN: 0013587779
)	
Applicant with ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP MIDSTREAM, LP;	)	0004030479, 0004144435,
JACKSON COUNTY RURAL MEMBERSHIP ELECTRIC	)	0004193028, 0004193328,
COOPERATIVE; PUGET SOUND ENERGY, INC.;	)	0004354053, 0004309872,
ENBRIDGE ENERGY COMPANY, INC.; INTERSTATE	)	0004310060, 0004314903,
POWER AND LIGHT COMPANY; WISCONSIN POWER	)	0004315013, 0004430505,
AND LIGHT COMPANY; DIXIE ELECTRIC MEMBERSHIP	)	0004417199, 0004419431,
CORPORATION, INC.; ATLAS PIPELINE – MID	)	0004422320, 0004422329,
CONTINENT, LLC; DENTON COUNTY ELECTRIC	)	0004507921, 0004153701,
COOPERATIVE, INC., DBA COSERV ELECTRIC; AND	)	0004526264, 0004636537,
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY	)	and 0004604962

To: Marlene H. Dortch, Secretary

Attention: Chief Administrative Law Judge Richard L. Sippel

Motion to Amend Schedule
Due to Government Shutdown and Other Good Cause

I, Warren Havens,¹ a party in this proceeding, request that the Scheduling Order, FCC 13M-18, be amended due to the recent 16-day federal government shutdown (the “Shutdown”), as well as other good cause explained below.

/ / /

¹ Herein, I use “Havens,” “I” and derivatives interchangeably.

Requests

In Part I below, I request a 30-day extension of the deadline date for submissions of the contemplated substantial Motions to Resolve (defined below), and submit good cause therefor.

In Part II below, I request reset of all deadline dates for events that follow Motions to Resolve and related oppositions to be, instead of dates certain, periods of time past the date of the decisions on all submitted Motions to Resolve, and submit good cause therefore.

- I -

The FCC announced yesterday, October 17, 2013 in DA 13-2025:²

As a result of the recent government-wide lapse in funding, the Commission suspended normal operations from October 1, 2013 through October 16, 2013, for a total of 16 days. Among other things, the Commission's filing window, mail room, and all electronic filing systems, with the exception of the Network Outage Reporting System (NORS), were unavailable from October 1, 2013, until today. In addition, many Commission resources normally accessible through the Commission's web site, including access to electronic dockets, were inaccessible for the same period....

During the Shutdown at the FCC, the FCC website, including the ECFS and ULS systems, were not operating. Because of that, parties in this hearing, including myself and new counsel I am interviewing to represent myself and some or all of the SkyTel legal entities in this proceeding, could not access the docket pleadings and orders in this proceeding, and in the parallel proceeding WT Docket No. 13-85 regarding Maritime Communications/Land Mobile LLC's ("Maritime") assignment to Choctaw of its AMTS licenses, its request for "Second Thursday" relief, "footnote 7" relief, and rule waiver relief, as well as the history of the Maritime site-based licenses on ULS extending back to these licenses' being held by predecessors of

² We assume that it will take some time for various FCC offices and bureaus to fully get back up to speed and determine how and when to process filings and make decisions that would have been made during the Shutdown and up to October 21st.

Maritime.³ Further, paper copies of the station files of these Maritime site-based licenses in the earlier stages (prior to conversion of the AMTS radio service over to ULS) were not available during the Shutdown.⁴

In addition, many FCC licensees, including the SkyTel entities of which I am the President and controlling interest, had various, substantial FCC filings and actions that were due during the Shutdown, and have additional, substantial filings due in the next several weeks involving over one thousand licenses and other matters, further discussed below.

The Scheduling Order, FCC 13M-18, set a date of October 31, 2013 for “Substantive Motions regarding matters that should precede a hearing on Issue G.” (“Motions to Resolve”) That Scheduling Order included:

The Presiding Judge has reviewed the schedule proposed by Mr. Havens and agreed upon by the Bureau and Maritime. He has made modifications to that schedule that provide the parties with greater certainty as to the dates on which submissions are due and compress what he believes to be excessively long deadlines.

The Havens proposed schedule, which FCC 13M-18 accepted with modifications, listed over a dozen matters that Havens proposed as appropriate for Motions to Resolve. The Enforcement Bureau and Maritime stated to the Administrative Law Judge (“ALJ”) that they accepted the Havens filing with the proposed schedule, and noted no exception. It does appear that the ALJ, Maritime, and the Enforcement Bureau disagreed with the Havens’ list of potential matters that are appropriate for Motions to Resolve. By review of that list of potential matters

³ We keep some but not the majority of filings and orders offline in computer files. The FCC databases are the official repositories, and are organized in the most convenient forms. We thus use the FCC databases primarily.

⁴ Part of Issue (g) involves whether or not the subject site-based stations and licenses were timely and properly constructed, and reported as such, and whether the FCC ascertained that or simply accepted assertions from the licensees involved. Accordingly, a review of the records extending back to the paper records prior to the FCC implementing ULS for the AMTS radio service is important.

for Motions to Resolve, it can be seen that there is a large amount of research and drafting involved if even a modest quantity of those total matters is presented in Motions to Resolve.

The government and FCC Shutdown noted above, including the inaccessibility of EFCS, ULS, and pre-ULS paper records noted above, is good cause for an extension of the date currently set in Scheduling Order, FCC 13M-18, first, since those records are needed for research and drafting of the Motions to Resolve.

Additional good cause due to the Shutdown is indicated above in that many licensees, including the SkyTel entities, have in the next several weeks many additional filings that must be submitted, and that could not be submitted during the Shutdown.⁵

Thus, I request that 30 days be added to all of the dates in the Scheduling Order, FCC 13M-18, subject to the additional schedule amendment in Part II below.

As I described in my proposed scheduling filing, the Issue (g) proceeding is one in which any party has shown or suggested a need for a schedule leading to and including the hearing on a shorter timeline, between events, than the three parties that responded to the ALJ's Order to submit proposed scheduling agreed upon. The ALJ himself permitted this Issue to already involve over 2 and ¼ years to date. Further, Maritime has made no assertion in the appeal case filed by SkyTel entities of the bankruptcy court order approving the Maritime-Choctah chapter

⁵ Among them, the SkyTel entities have several thousand FCC licenses in various radio services and with various deadlines. With few exceptions, preparing filings that are required, or that are elective but important, require access to ULS and other parts of the FCC's website. Certain of the SkyTel entities have due in the next several weeks required FCC filings for over a thousand licenses (including required 3-year reports for the Part 22 licenses of Intelligent Transportation & Monitoring Wireless LLC, V2G LCC, and Skybridge Spectrum Foundation), as well as additional elective filings that are important, and that must be filed in that time period or be late under the relevant rules. I, Warren Havens, have the primary responsibility to undertake and complete these filings, as the President of the SkyTel entities involved. Staff of the SkyTel entities that assist me in this proceeding 11-71, are also involved in these upcoming filings due in the next two weeks.

11 plan, upon which all of the other issues in FCC 11-64 turn (this can be seen in the online pleadings in the docket of this case on the US Courts PACER system). Thus, while I proposed previously an efficient schedule given the numerous matters involved in and related to Issue (g), and mean to so do by this request for an amended schedule, there is no apparent prejudice if this request is granted.

- II -

As indicated above, it appears that the Enforcement Bureau and Maritime agreed to the filing by Havens with a proposed schedule, including the need for various Motions to Resolve. The Havens filing described these as potentially involving over a dozen matters. It was not clear in the filing by the Enforcement Bureau and Maritime what Motions to Resolve they had in mind, if they were other than matters among those listed in the Havens filing.⁶

The principal reason that the Havens filing did not set a date certain after the date for Motions to Resolve is that Havens described over a dozen relevant matters for Motions to Resolve, and expected many, if not all, of those matters to be presented in Motions to Resolve. *Decisions on those motions should be made prior to the further actions on the schedule, because those decisions will either dispose of or substantially affect all of the other actions on the schedule.* I note that the schedule proposed by the Enforcement Bureau and Maritime has the

⁶ The Havens proposed schedule filing described and attached communications to Havens from Maritime and the Enforcement Bureau concerning discussion between those two entities about a *settlement* regarding the Maritime site-based licenses. The Bureau instructed me by email that the Maritime settlement information was or was to be confidential under the Protective Order in 11-71, and that, by its terms, I *can not* receive any information of any kind that was under this Protective Order. (In that case, it is not clear how Sandra Depriest *can*.) I do not believe any such settlement could fully resolve Issue (g) including since the ALJ permitted, in his decision on the Maritime motion for summary decision, evidence of wrongdoing associated with the site-based licenses and Issue (g) to be prosecuted in the hearing. I intend to do that. I already submitted substantial evidence of this in this proceeding including in my opposition to that Maritime motion.

same structure whereby there was an initial date for Motions to Resolve and subsequent dates that involved periods of time, rather than dates certain. In any case, the Enforcement Bureau and Maritime agreed to the Havens proposed schedule.

It did not then and still does not appear possible to determine how long it will take for decisions to be made on the Motions to Resolve, and thus it does not appear possible to schedule the events by dates certain (as opposed to time periods) that follow after the dates for the Motions to Resolve and related oppositions.

In addition, it is not possible to prepare for those following events very fully or efficiently until the Motions to Resolve are decided, because only at that time will it be clear what remains in this case, and what additional clarity may have been decided.

Conclusion

For good cause shown, I request grant of the two requests submitted above.

Respectfully submitted,

/s/

Warren Havens
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October 18, 2013

CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 18th day of October, 2013, caused to be served by first class United States mail copies of the foregoing “Motion to Amend Schedule” to:

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